

AMENDED IN SENATE AUGUST 5, 2014

AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 18, 2014

AMENDED IN SENATE MAY 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1979**

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**Introduced by Assembly Member Nazarian**

February 19, 2014

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An act to amend Sections 17173, 17199.3, and 17199.4 of, and to repeal Section 17193.5 of, the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1979, as amended, Nazarian. School facilities: California School Finance Authority: definitions.

(1) Existing law authorizes the California School Finance Authority to, among other things, determine the location and character of any project to be financed or refinanced under the California School Finance Authority Act. Existing law defines the term “project” as the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to the act.

This bill would provide that the term “project” may also include reimbursement for the costs of acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an education facility to be financed or refinanced pursuant to the act, provided that reimbursement from bond proceeds is required to comply

with federal tax law in accordance with an opinion of counsel that supports special treatment under federal tax law, as specified.

(2) Existing law authorizes a public credit provider, as defined, to require a participating party, with regard to providing credit enhancement for bonds, notes, certificates of participation, or other evidences of indebtedness of a participating party, to agree to specified conditions, including allowing the Controller to allocate specified school district, county office of education, or charter school apportionments to the public credit provider if the public credit provider is required to make principal or interest payments, or both, pursuant to the credit enhancement agreement.

This bill would delete this provision.

(3) Existing law limits the total amount of revenue bonds that may be issued and outstanding at any time for purposes of the California School Finance Authority Act, other than up to \$4,000,000,000 in revenue bonds issued under a specified provision of that act, to \$400,000,000.

This bill would delete the distinction between the limits of the total amounts of revenue bonds that may be issued and outstanding at any time for purposes of the California School Finance Authority Act and under the specified provision of the act. The bill would instead set the limit of the total amount of revenue bonds that may be issued and outstanding at any time for purposes of the act at \$4,400,000,000.

(4) Existing law, the California School Finance Authority Act, authorizes a participating party, as defined, in connection with securing financing or refinancing of projects, as defined, to elect to guarantee or provide for payment of the bonds and related obligations in accordance with specified conditions.

This bill would generally revise and recast this provision of the act to authorize participating parties to provide for the funding of specified costs related to the issuance of the bonds, as well as the payment of the bonds, in accordance with prescribed requirements.

(5) *This bill would incorporate additional changes to Section 17199.4 of the Education Code proposed by SB 971 that would become operative if this bill and SB 971 are both enacted on or before January 1, 2015, and this bill is enacted last.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 17173 of the Education Code is amended to read:

17173. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) “Act” means the California School Finance Authority Act.

(b) “Agent” means a county or city board of education or superintendent of schools acting with the board’s consent, on behalf of one or more school districts for any purpose of this chapter, the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with the Board of Governors’ consent, on behalf of one or more community college districts for any purpose of this chapter, and the school district, county office of education, or other chartering entity acting with the consent of, and on behalf of, one or more charter schools for any purpose of this chapter.

(c) “Authority” means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(d) “Bonds” or “revenue bonds” means bonds, notes, lease obligations, certificates of participation, commercial paper, and any other evidences of indebtedness.

(e) “Certificate of participation” means an undivided interest in one or more bonds, leases, loans, installment sales, or other agreements of a participating party or parties.

(f) “Charter school” means a school established pursuant to Part 26.8 (commencing with Section 47600) of Division 4 of Title 2.

(g) “Cost,” as applied to all or part of a project financed or refinanced pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

1 (4) All machinery and equipment.

2 (5) Financing or refinancing charges, including, but not limited  
3 to, credit enhancement costs, and prepayment penalties.

4 (6) Interest before, during, and for a period following, the  
5 completion of any construction or improvement determined by the  
6 authority.

7 (7) Provisions for working capital.

8 (8) Reserves for principal and interest, and for extensions,  
9 enlargements, additions, replacements, renovations, and  
10 improvements.

11 (9) Engineering, architectural, financial, and legal services,  
12 plans, specifications, studies, surveys, estimates, administrative  
13 expenses, and other expenses necessary or incident to the  
14 construction, acquisition, or improvement of any project or any  
15 financing or refinancing under this chapter.

16 (h) "Educational facility" means any property, facility, structure,  
17 equipment, or furnishings used or operated in conjunction with  
18 one or more public schools, including charter schools, or  
19 community colleges, including, but not limited to, all of the  
20 following:

21 (1) Classrooms.

22 (2) Auditoriums.

23 (3) Student centers.

24 (4) Administrative offices.

25 (5) Sports facilities.

26 (6) Maintenance, storage, or utility facilities.

27 (7) All necessary or usual attendant and related facilities and  
28 equipment, including streets, parking, and supportive service  
29 facilities or structures required or useful for the effective operation  
30 of the educational facility.

31 (i) "Participating party" means:

32 (1) A school district, charter school, county office of education,  
33 or community college district that undertakes, itself or through an  
34 agent, the financing or refinancing of a project or of working capital  
35 pursuant to this chapter.

36 (2) Any person, company, association, state or municipal  
37 government entity, partnership, firm, or other entity or group of  
38 entities that undertakes the financing or refinancing of a project  
39 pursuant to this chapter in conjunction with an entity described in  
40 paragraph (1).

1 (3) “Participating party” shall also be deemed to refer to the  
2 agent to the extent the agent is acting on behalf of the school  
3 district, charter school, county office of education, or community  
4 college district for any purpose of this chapter.

5 (4) For purposes of subdivision (d) of Section 17183, ~~and~~  
6 ~~Section 17193.5~~, subdivisions (a) and (b) of Section 17199.1, and  
7 Section 17199.4, “participating party” shall be deemed to refer to  
8 an entity described in paragraph (1) in conjunction with which an  
9 entity described in paragraph (2), if any, applied for financing from  
10 the authority.

11 (j) “Project” means the acquisition, construction, expansion,  
12 remodeling, renovation, improvement, furnishing, or equipping  
13 of an educational facility to be financed or refinanced pursuant to  
14 this chapter. “Project” may include reimbursement for the costs  
15 of acquisition, construction, expansion, remodeling, renovation,  
16 improvement, furnishing, or equipping of an educational facility  
17 to be financed or refinanced pursuant to this chapter, provided that  
18 reimbursement from bond proceeds is required to comply with  
19 federal tax law in accordance with an opinion of counsel that  
20 supports special treatment under federal tax law for the bonds  
21 issued for the applicable financing or refinancing. “Project” may  
22 include any combination of the foregoing undertaken jointly by  
23 any participating party with one or more other participating parties.

24 (k) “Working capital” means funds to be used by, or on behalf  
25 of, a participating party to pay maintenance or operating expenses,  
26 or any other costs that would be treated as an expense item under  
27 generally accepted accounting principles in connection with the  
28 ownership or operation of an educational facility, including, but  
29 not limited to, all of the following:

30 (1) Reserves for maintenance or operating expenses.

31 (2) Interest for a period not to exceed two years on any loan for  
32 working capital made pursuant to this chapter.

33 (3) Reserves for debt service, and any other costs necessary or  
34 incidental to, financing pursuant to this chapter.

35 (4) Payments made by a participating party for the rent or lease  
36 of an educational facility.

37 SEC. 2. Section 17193.5 of the Education Code is repealed.

38 SEC. 3. Section 17199.3 of the Education Code is amended to  
39 read:

1 17199.3. (a) The total amount of revenue bonds that may be  
2 issued and outstanding at any time for purposes of this chapter  
3 shall not exceed four billion four hundred million dollars  
4 (\$4,400,000,000).

5 (b) For purposes of subdivision (a) bonds that meet any of the  
6 following conditions shall not be deemed to be outstanding:

7 (1) Bonds that have been refunded pursuant to Section 17188.

8 (2) Bonds for which money or securities in amounts necessary  
9 to pay or redeem the principal, interest, or any redemption premium  
10 on the bonds have been deposited in trust.

11 (3) Bonds that have been issued to finance or refinance working  
12 capital.

13 SEC. 4. Section 17199.4 of the Education Code is amended to  
14 read:

15 17199.4. (a) Notwithstanding any other law, any participating  
16 party, in connection with securing financing or refinancing of  
17 projects, or working capital pursuant to this chapter, may, in  
18 accordance with this section, elect to provide for funding, in whole  
19 or in part, one or more of the following:

20 (1) Payments on authority bonds.

21 (2) Payments under credit enhancement or liquidity support  
22 agreements in connection with authority bonds.

23 (3) Amounts pledged or assigned under one or more pledges or  
24 assignments to pay authority bonds or obligations under these  
25 credit enhancement or liquidity support agreements.

26 (4) Payments to fund reserves available to pay any of the  
27 payments described in paragraphs (1), (2), and (3), exclusively  
28 until paid.

29 (5) Fees and charges contemplated by the instruments of the  
30 authority, trustees, tender agents, remarketing agents, credit  
31 enhancement and liquidity support providers, and service providers.

32 (6) Any other costs necessary or incidental to any financing or  
33 refinancing conducted under this chapter.

34 (b) The payments made pursuant to subdivision (a) may be in  
35 connection with a financing or refinancing benefiting the  
36 participating party itself, one or more other participating parties,  
37 or any combination thereof.

38 (c) To participate under this section, the participating party shall  
39 do all of the following:

1 (1) Elect to participate by an action of its governing board taken  
2 in compliance with the rules of that board.

3 (2) Provide written notice to the Controller, no later than the  
4 date of the issuance of the bonds or 60 days before the next  
5 payment, whichever is later, of all of the following:

6 (A) Its election to participate.

7 (B) A schedule of the payments subject to that election.

8 (C) The payee or payees of those payments, or the trustee or  
9 agent on their behalf to receive those payments.

10 ~~(D)~~

11 (i) Payment delivery instructions, which may be by wire transfer  
12 or other method approved by the Controller.

13 ~~(E)~~

14 (ii) If the method of payment delivery is wire transfer, *the*  
15 *participating party shall* complete and submit the appropriate  
16 authorization form as prescribed by the Controller.

17 (d) The participating party may amend, supplement, or restate  
18 the notice required pursuant to paragraph (2) of subdivision (c)  
19 for any reason, including, but not necessarily limited to, providing  
20 for new or increased payments. The participating party shall certify  
21 in the notice and in any amendment, supplement, or restatement  
22 of the notice that each and every payment reflected in the schedule  
23 is a payment described in subdivision (a) and the amounts  
24 scheduled do not exceed the actual or reasonably estimated  
25 payment obligations to be funded pursuant to this section. The  
26 participating party shall also represent in the notice that it is not  
27 submitting the notice for the purpose of accelerating a participating  
28 party's receipt of its apportionments. Nothing in this section  
29 prohibits transfer by the recipient of an apportionment under this  
30 section to the participating party submitting the notice of the excess  
31 apportionment above the amount needed to fund actual payments  
32 where the excess resulted from erroneous estimation of scheduled  
33 payments or otherwise.

34 (e) Upon receipt of the notice required by paragraph (2) of  
35 subdivision (c), the Controller shall make an apportionment to the  
36 indicated recipient on the date, or during the period, shown in the  
37 schedule in accordance with the following:

38 (1) If the participating party requests transfers in full as  
39 scheduled, in the amount of the scheduled transfer or such lesser

1 amount as is available from the sources indicated in subdivision  
2 (f).

3 (2) If the participating party does not request transfers in full  
4 as scheduled, in the amount of the anticipated deficiency for the  
5 purpose of making the required payment indicated in a written  
6 request of the participating party to the Controller and in the  
7 amount of the actual shortfall in payment indicated in a written  
8 request of the recipient or the participating party to the Controller  
9 or the lesser amount that is available from the sources indicated  
10 in subdivision (f).

11 (3) To the extent funds available for an apportionment are  
12 insufficient to pay the amount set forth in a schedule in any period,  
13 the Controller shall, if and as requested in the notice, reschedule  
14 the payment of all or a portion of the deficiency to a subsequent  
15 period.

16 (4) In making apportionments under this section, the Controller  
17 may rely conclusively and without liability on any notice or request  
18 delivered under this section, including any delivered prior to  
19 enactment of the act that adds this paragraph. The Controller may  
20 make, but is not obligated to make, apportionments not reflected  
21 on a notice or *on an* amended, supplemented, or restated notice  
22 delivered under this section that the Controller receives less than  
23 20 days prior to when the apportionment would otherwise be  
24 required.

25 (f) The Controller shall make an apportionment under this  
26 section only from moneys designated for apportionment to the  
27 participating party delivering the notice, and only from one or  
28 more of the following:

29 (1) Any revenue limit apportionments to a school district or  
30 county office of education without regard to the specific funding  
31 source of the apportionment.

32 (2) Any charter school block grant apportionments to a charter  
33 school without regard to the specific funding source of the  
34 apportionment.

35 (3) Any charter school categorical block grant apportionments  
36 to a charter school without regard to the specific funding source  
37 of the apportionment.

38 (g) (1) The amount apportioned for a participating party  
39 pursuant to this section shall be deemed to be an allocation to the  
40 participating party, and shall be included in the computation of



1 allocation, limit, entitlement, or apportionment for the participating  
2 party.

3 (2) The participating party and its creditors do not have a claim  
4 to funds apportioned or anticipated to be apportioned by the  
5 Controller pursuant to this section.

6 (h) (1) The authority may require participation under this section  
7 under the terms of any financing or refinancing under this chapter  
8 to provide for one or more of the payments described in paragraphs  
9 (1), (2), (3), and (4) of subdivision (a). The authority may impose  
10 limits on new participation under this section. The authority may  
11 require participating parties to apply to the authority for  
12 participation. If the authority limits participation under this section,  
13 the authority shall consider each of the following priorities in  
14 making participation available:

15 (A) First priority shall be given to participating parties that apply  
16 for funding for instructional classroom space under this chapter.

17 (B) Second priority shall be given to participating parties that  
18 apply for funding of modernization of instructional classroom  
19 space under this chapter.

20 (C) Third priority shall be given to participating parties that  
21 apply for funding under this chapter for any other eligible costs,  
22 as defined in Section 17173.

23 (2) The authority shall prioritize applications at appropriate  
24 intervals.

25 (3) A school district electing to participate under this section  
26 that has applied for revenue bond moneys for purposes of joint  
27 venture school facilities construction projects, pursuant to Article  
28 5 (commencing with Section 17060) of Chapter 12, shall not be  
29 subject to the priorities set forth in paragraph (1).

30 (i) This section shall not be construed to make the State of  
31 California liable for any payments within the meaning of Section  
32 1 of Article XVI of the California Constitution.

33 (j) A school district that has a qualified or negative certification  
34 pursuant to Section 42131, or a county office of education that has  
35 a qualified or negative certification pursuant to Section 1240, may  
36 not participate under this section.

37 (k) This section does not obligate the State of California to make  
38 available the sources of apportionment under subdivision (f) in  
39 any amount or *at* any time or, except as provided in this section,

1 to fund any payment described in this section. The addition of this  
2 subdivision is intended solely to clarify existing law.

3 *SEC. 4.5. Section 17199.4 of the Education Code is amended*  
4 *to read:*

5 17199.4. (a) Notwithstanding any other law, any participating  
6 party, in connection with securing financing or refinancing of  
7 projects, or working capital pursuant to this chapter, ~~may elect to~~  
8 ~~guarantee or provide for payment of the bonds and related~~  
9 ~~obligations in accordance with the following conditions:~~ *may, in*  
10 *accordance with this section, elect to provide for funding, in whole*  
11 *or in part, one or more of the following:*

12 (1) *Payments on authority bonds.*

13 (2) *Payments under credit enhancement or liquidity support*  
14 *agreements in connection with authority bonds.*

15 (3) *Amounts pledged or assigned under one or more pledges*  
16 *or assignments to pay authority bonds or obligations under these*  
17 *credit enhancement or liquidity support agreements.*

18 (4) *Payments to fund reserves available to pay any of the*  
19 *payments described in paragraphs (1), (2), and (3), exclusively*  
20 *until paid.*

21 (5) *Fees and charges contemplated by the instruments of the*  
22 *authority, trustees, tender agents, remarketing agents, credit*  
23 *enhancement and liquidity support providers, and service*  
24 *providers.*

25 (6) *Any other costs necessary or incidental to any financing or*  
26 *refinancing conducted under this chapter.*

27 (b) *The payments made pursuant to subdivision (a) may be in*  
28 *connection with a financing or refinancing benefiting the*  
29 *participating party itself, one or more other participating parties,*  
30 *or any combination thereof.*

31 (c) *To participate under this section, the participating party*  
32 *shall do all of the following:*

33 (1) *Elect to participate by an action of its governing board taken*  
34 *in compliance with the rules of that board.*

35 (1) ~~If a participating party adopts a resolution by a majority vote~~  
36 ~~of its board to participate under this section, it shall provide notice~~

37 (2) ~~Provide written notice to the Controller of that election. The~~  
38 ~~notice shall include a schedule for the repayment of principal and~~  
39 ~~interest on the bonds, and any other costs necessary or incidental~~  
40 ~~to financing pursuant to this chapter, and identify a trustee~~

1 appointed by the participating party or the authority for purposes  
2 of this section. If payment of all or a portion of the principal and  
3 interest on the bond is secured by a letter of credit or other  
4 instrument of direct payment, the notice may provide for  
5 reimbursements to the provider of the instrument in lieu of payment  
6 of that portion of the principal and interest of the bonds. The notice  
7 shall be provided not *Controller*, no later than the date of the  
8 issuance of the bonds or 60 days before the next payment,  
9 whichever date is later. The participating party shall update the  
10 notice at least annually if there is a change in the required payment  
11 for any reason, including, but not limited to, providing for new or  
12 increased costs necessary or incidental to the financing. *is later,*  
13 *of all of the following:*

14 (A) *Its election to participate.*

15 (B) *A schedule of the payments subject to that election.*

16 (C) *The payee or payees of those payments, or the trustee or*  
17 *agent on their behalf to receive those payments.*

18 (i) *Payment delivery instructions, which may be by wire transfer*  
19 *or other method approved by the Controller.*

20 (ii) *If the method of payment delivery is wire transfer, the*  
21 *participating party shall complete and submit the appropriate*  
22 *authorization form as prescribed by the Controller.*

23 ~~(2) If, for~~

24 (d) *The participating party may amend, supplement, or restate*  
25 *the notice required pursuant to paragraph (2) of subdivision (c)*  
26 *for any reason, the participating party will not make a payment at*  
27 *the time the payment is required, the including, but not necessarily*  
28 *limited to, providing for new or increased payments. The*  
29 *participating party shall certify in the notice and in any*  
30 *amendment, supplement, or restatement of the notice that each*  
31 *and every payment reflected in the schedule is a payment described*  
32 *in subdivision (a) and the amounts scheduled do not exceed the*  
33 *actual or reasonably estimated payment obligations to be funded*  
34 *pursuant to this section. The participating party shall notify the*  
35 *trustee of that fact and of the amount of the deficiency. If the trustee*  
36 *receives this notice from the participating party, or does not receive*  
37 *any payment by the date that payment becomes due, the trustee*  
38 *shall immediately communicate that information to the Controller.*  
39 *also represent in the notice that it is not submitting the notice for*  
40 *the purpose of accelerating a participating party's receipt of its*

1 apportionments. Nothing in this section prohibits transfer by the  
2 recipient of an apportionment under this section to the  
3 participating party submitting the notice of the excess  
4 apportionment above the amount needed to fund actual payments  
5 where the excess resulted from erroneous estimation of scheduled  
6 payments or otherwise.

7 ~~(3)~~

8 (e) Upon receipt of the notice required by paragraph ~~(2)~~, (2) of  
9 subdivision (c), the Controller shall make an apportionment to the  
10 trustee indicated recipient on the ~~date~~ date, or during the period,  
11 shown in the schedule in the amount of the deficiency for the  
12 purpose of making the required payment. The Controller shall  
13 make that apportionment only from moneys designated for  
14 apportionment to a participating party, provided that such moneys  
15 are from one or more of accordance with the following:

16 (1) If the participating party requests transfers in full as  
17 scheduled, in the amount of the scheduled transfer or such lesser  
18 amount as is available from the sources indicated in subdivision  
19 (f).

20 (2) If the participating party does not request transfers in full  
21 as scheduled, in the amount of the anticipated deficiency for the  
22 purpose of making the required payment indicated in a written  
23 request of the participating party to the Controller and in the  
24 amount of the actual shortfall in payment indicated in a written  
25 request of the recipient or the participating party to the Controller  
26 or the lesser amount that is available from the sources indicated  
27 in subdivision (f).

28 (3) To the extent funds available for an apportionment are  
29 insufficient to pay the amount set forth in a schedule in any period,  
30 the Controller shall, if and as requested in the notice, reschedule  
31 the payment of all or a portion of the deficiency to a subsequent  
32 period.

33 (4) In making apportionments under this section, the Controller  
34 may rely conclusively and without liability on any notice or request  
35 delivered under this section, including any delivered prior to  
36 enactment of the act that adds this paragraph. The Controller may  
37 make, but is not obligated to make, apportionments not reflected  
38 on a notice or on an amended, supplemented, or restated notice  
39 delivered under this section that the Controller receives less than

1 20 days prior to when the apportionment would otherwise be  
2 required.

3 (f) The Controller shall make an apportionment under this  
4 section only from moneys designated for apportionment to the  
5 participating party delivering the notice, and only from one or  
6 both of the following:

7 ~~(A) Any revenue limit apportionments~~

8 (1) Any funding apportioned for purposes of revenue limits or  
9 the local control funding formula pursuant to Section 42238.02,  
10 as implemented by Section 42238.03, to a school district or county  
11 office of education without regard to the specific funding source  
12 of the apportionment.

13 ~~(B) Any charter school block grant apportionments to a charter~~  
14 ~~school without regard to the specific funding source of the~~  
15 ~~apportionment.~~

16 ~~(C)~~

17 (2) Any funding apportioned for purposes of the charter school  
18 ~~categorical block grant apportionments block grant or the local~~  
19 ~~control funding formula pursuant to Section 42238.02, as~~  
20 ~~implemented by Section 42238.03, to a charter school without~~  
21 ~~regard to the specific funding source of the apportionment.~~

22 ~~(4) As an alternative to the procedures set forth in paragraphs~~  
23 ~~(2) and (3), the participating party may provide a transfer schedule~~  
24 ~~in its notice to the Controller of its election to participate under~~  
25 ~~this section. The transfer schedule shall set forth amounts to be~~  
26 ~~transferred to the trustee and the date for the transfers. The~~  
27 ~~Controller, subject to the limitation in paragraph (3), shall make~~  
28 ~~apportionments to the trustee of those amounts on the specified~~  
29 ~~date for the purpose of making those transfers. The authority may~~  
30 ~~require a participating party to proceed under this subdivision.~~

31 ~~(b)~~

32 (g) (1) The amount apportioned for a participating party  
33 pursuant to this section shall be deemed to be an allocation to the  
34 participating party, and shall be included in the computation  
35 of allocation, limit, entitlement, or apportionment for the  
36 participating party.

37 The

38 (2) The participating party and its creditors do not have a claim  
39 to funds apportioned or anticipated to be apportioned to the trustee  
40 by the Controller pursuant to paragraph (3) and (4) of subdivision

(a), or to the funds apportioned to by the Controller to the trustee under any other provision of this section.

(e)

(h) (1) ~~Participating parties that elect to participate~~ *The authority may require participation under this section shall under the terms of any financing or refinancing under this chapter to provide for one or more of the payments described in paragraphs (1), (2), (3), and (4) of subdivision (a). The authority may impose limits on new participation under this section. The authority may require participating parties to apply to the authority. The authority for participation. If the authority limits participation under this section, the authority shall consider each of the following priorities in making funds participation available:*

(A) First priority shall be given to ~~school districts, charter schools, or county offices of education~~ *participating parties that apply for funding for instructional classroom space: space under this chapter.*

(B) Second priority shall be given to ~~school districts, charter schools, or county offices of education~~ *participating parties that apply for funding of modernization of instructional classroom space: space under this chapter.*

(C) Third priority shall be given to ~~all~~ *participating parties that apply for funding under this chapter for any other eligible costs, as defined in Section 17173.*

(2) The authority shall prioritize applications at appropriate intervals.

(3) A school district electing to participate under this section that has applied for revenue bond moneys for purposes of joint venture school facilities construction projects, pursuant to Article 5 (commencing with Section 17060) of Chapter 12, shall not be subject to the priorities set forth in paragraph (1).

(d)

(i) This section shall not be construed to make the State of California liable for any payments within the meaning of Section 1 of Article XVI of the California ~~Constitution or otherwise, except as expressly provided in this section.~~ *Constitution.*

(e)

(j) A school district that has a qualified or negative certification pursuant to Section 42131, or a county office of education that has

1 a qualified or negative certification pursuant to Section 1240, may  
2 not participate under this section.

3 *(k) This section does not obligate the State of California to make*  
4 *available the sources of apportionment under subdivision (f) in*  
5 *any amount or at any time or, except as provided in this section,*  
6 *to fund any payment described in this section. The addition of this*  
7 *subdivision is intended solely to clarify existing law.*

8 *SEC. 5. Section 4.5 of this bill incorporates amendments to*  
9 *Section 17199.4 of the Education Code proposed by both this bill*  
10 *and Senate Bill 971. It shall only become operative if (1) both bills*  
11 *are enacted and become effective on or before January 1, 2015,*  
12 *(2) each bill amends Section 17199.4 of the Education Code, and*  
13 *(3) this bill is enacted after Senate Bill 971, in which case Section*  
14 *4 of this bill shall not become operative.*